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September 16, 2020

Via ECF

Hon. Frank P. Geraci, Jr.
Chief U.S. District Judge
U.S. Courthouse
100 State Street
Rochester, NY 14614

Re: ***Horn v. Medical Marijuana, Inc., et al.***
Case No: 15-CV-701 (FPG-MJR)

Dear Judge Geraci:

This office represents plaintiff in this matter, and I respond to defense counsel's letter of yesterday. This response is an effort to clarify the purpose and timing of Plaintiff's 60(b) motion.

By way of clarification, FRCP 60(b) is not a motion for reconsideration as counsel states, but one for relief from an Order. FRCP 60(c)(1) gives us one year to make the motion from Your Honor's November 21, 2019 Decision and Order dismissing a portion of Plaintiff's RICO claim. That Decision was made as a result of Defendants' FRCP 54(b) motion for reconsideration of the Court's Order of April 17, 2019, which allowed Plaintiff's RICO claim to proceed.

Under normal circumstances, we would have liked to have made this motion earlier, but we made the motion just over two months in advance of that deadline. We have also made the motion some months ahead of trial.

To be clear, we did not make the motion to in any way delay trial, or even pre-trial submissions. However, we felt compelled to make it as the RICO issue that the Court dismissed in that Order is related to issues the Court has allowed to go forward, and was a substantial issue in that claim of Plaintiff.

Thank you for Your Honor's consideration.

Very truly yours,

Jeffrey Benjamin

Jeffrey Benjamin, Esq.

cc: All parties via ECF
